

# MINUTES

## State-Tribal Relations



Senator Troy Heinert, Chair  
Representative Elizabeth May, Vice Chair

Third Meeting, 2017 Interim  
Thursday, December 14, 2017

Harney Peak Room  
Best Western Ramkota Hotel  
2111 N. LaCrosse Street  
Rapid City, SD 57701

The third meeting of the State-Tribal Relations Committee was called to order at 10:14 a.m. (MDT) on December 14, 2017, in the Harney Peak room, Best Western Ramkota Hotel, Rapid City, South Dakota.

A quorum was determined by the following members answering the roll call: Senators Phil Jensen, Kevin Killer, Stace Nelson, and Lance Russell; Representatives Shawn Bordeaux, John Lake, Oren Lesmeister, Steve Livermont; Representative Elizabeth May, Vice Chair; and Senator Troy Heinert, Chair.

Staff members present included Jessica LaMie, Legislative Attorney; Emily Kerr, Legislative Attorney; and Ariel Hammerquist, Fiscal Analyst.

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.*

Senator Heinert led attendees in a prayer.

### Approval of the Minutes

**A MOTION WAS MADE BY SENATOR NELSON AND SECONDED BY SENATOR JENSEN TO AMEND THE MINUTES OF THE OCTOBER 23, 2017, STATE-TRIBAL RELATIONS COMMITTEE MEETING AS FOLLOWS:**

On page 6 delete the last paragraph and insert:

"Senator Nelson stated that he was disgusted, angry, and upset at the mismanagement of GEAR UP. This corruption affects our children's future and hurts the economic development of the tribes and the state. Senator Nelson encouraged South Dakotans to refer to their state constitution which says the legislature can summons and subpoena to impeach the highest officers of the state. The Legislature is not just policy makers and bill passers as the Governor tried to infer to shut down inquiries into this mismanagement. This theft from Native Americans that the Governor tries to pass off, the buck stops in his office. The Department of Education may have mismanaged this but it is the Governor's cabinet and he is responsible. Legislators under the Constitution are duty bound to hold the executive branch in check. Senator Nelson urged everyone not to listen to the ['siren song of a bureaucrat,'] but to listen to the Constitution. He reminded committee members that they are not, ['bucket carriers for the executive branch,'] and the committee needs to send that message loud and clear so not only does the, ['skinny gentleman in Pierre,'] hear it but also every one of their constituents."

On page 7, delete paragraph 3 and insert:

"SENATOR NELSON RAISED A POINT OF ORDER REQUESTING SENATOR HEINERT RECUSE HIMSELF FROM THE VOTE ON

THE MOTION BECAUSE OF A CONFLICT OF INTEREST BECAUSE SENATOR HEINERT'S MOTHER IS LISTED ON THE GEAR UP MAP.

Chair ruled the point of order was out of order because he felt no conflict of interest existed, and claimed there is no statutory definition for what a conflict of interest is."

**The motion prevailed on a voice vote.**

**A MOTION WAS MAY BY SENATOR JENSEN SECOND BY SENATOR NELSON TO APPROVE THE MINUTES OF THE OCTOBER 23, 2017, STATE-TRIBAL RELATIONS COMMITTEE MEETING AS AMENDED. The motion prevailed on a roll call vote with 5 members voting AYE, 4 members voting NAY, and 1 member abstaining. Those voting AYE: Jensen, Nelson, Russell, Livermont, and May. Those voting NAY: Killer, Bordeaux, Lesmeister, and Heinert. Abstained: Lake.**

**Senator Stace Nelson** stated that he sent the committee members a report regarding the October 23, 2017 committee meeting. The committee took no action on the report.

#### **Chair Opening Remarks**

**Senator Troy Heinert** welcomed Representative John Lake, Gettysburg, as a new member of the committee. Senator Heinert commented on the passing of the late Representative Craig Tieszen and expressed condolences to the family.

Senator Heinert stated he requested an official opinion from the Attorney General on whether the State-Tribal Relations Committee has any subpoena power and whether the committee is a statutory or interim committee. The opinion was not available at the time of the meeting but is expected in the next one to two weeks.

Senator Heinert welcomed all the guests in attendance.

#### **Rapid City Collective Impact**

**Ms. Charity Doyle, Project Manager, Rapid City Collective Impact (RCCI), Rapid City, South Dakota**, presented on the organization's activities to combat homelessness in the area. She explained the realities for many of the 15.2% residents living in poverty in Rapid City. She provided statistics on the working poor, federal poverty income levels, average rent in Rapid City, waiting list numbers for housing assistance, and the number of homeless students in the Rapid City School District. Ms. Doyle highlighted the growing need and diminishing resources. A new approach is needed, and the community is looking at successes and mistakes in models around the country. In particular, she provided information and statistics on the San Antonio Haven for Hope model. The community is looking at holistic and self-directed approaches to issues surrounding breaking the cycles of poverty, addiction, and homelessness, including prevention services.

Rapid City Collective Impact will function as an umbrella organization managing rather than directly providing treatment services. The organization wants to engage providers in the concept and encourage them to think collaboratively rather than in silos. The efforts will require maintenance, IT, outreach, and legal services, which will be provided by the umbrella organization.

Pennington County will take care of more acute end of the service spectrum, including safe beds, detox, and treatment services.

Ms. Doyle described the need for intake services and the beginning plans for the transformation campus for recovery services. The campus will focus on assisting with self-directed plans by clients; providing flexible space to various populations (elderly, youth, etc.); providing basic needs; creating peer support specialists; creating plans including: income plans, housing plans, clean and sober plans; connecting clients to people-centered, trauma-informed; recovery-oriented care; and providing life safety officers. There is a native leadership council working on the cultural components and cultural resources on campus.

Ms. Doyle explained the potential benefits for people served, providers, community, and county. The organization is concentrating on wrap around services to immerse clients in a helping environment so they don't have to go all over town for separate and disconnected services. The central location is key to assist with transportation access issues for those in need in Rapid City. The campus will encourage program participants to develop support systems in the community while they are in the program.

The organization will fund the creation of a shared database for providers to improve system data collection (improved homeless count; data collection quality) and to provide a team approach to care for better results. This system aims to reduce resource demand on the community. Ms. Doyle pointed out that Rapid City has very low unemployment and needs a better trained workforce. The campus will provide opportunities for individuals ready to move up in the workforce and on with the next stage of their lives. This will be better for business owners.

Ms. Doyle also discussed mitigating risks and concerns. The campus will not have an open air courtyard. The planning and mitigation aims to reduce law enforcement calls for service. Having these services downtown will save resources for transport. Ms. Doyle also outlined safety measures for residents and measures to accommodate other types of family groups, including grandparents caring for grandchildren, pets, and same sex couples. The organization is working on a planning phase for the next two years to ensure a successful launch. An operations budget is not yet available.

**Representative Shawn Bordeaux** said the Rapid City mayor has asked where is native leadership. Representative Bordeaux pointed out that Ms. Doyle mentioned native leadership has been there every step of the way. Ms. Doyle concurred. Representative Bordeaux added that natives have given of themselves often. Rosebud tribal members spend a great deal of money in Rapid City but do not feel respected. He spoke of feeling he was watched by law enforcement more closely in Rapid City when driving vehicles with tribal plates and of the time and financial costs to relocate to the area to find work. Tribes are also here to engage and assist efforts like RCCI. Representative Bordeaux encouraged Ms. Doyle and others to reach out to native leadership, not offend them.

**Representative John Lake** inquired regarding costs. Ms. Doyle said giving has tightened up but is hopeful it will shift and open up when people start to see results. Criminal justice resources and ambulance services are not included in transformation program costs. Ms. Doyle brought up that Rapid City is largely funded largely by sales tax. Some in the community want to hide the "problem" in North Rapid and isolate it, but Ms. Doyle disagrees.

**Representative Oren Lesmeister** thanked Ms. Doyle for the organization's ability to think out of the box. He inquired as to what type of job training the organization is looking at. Ms. Doyle said the organization was looking at technical training, and it added basic job skills, resume building, and technical training. She mentioned the potential need for interview confidence, dental services, or other training dependent upon the needs of the individual. Representative Lesmeister asked why is there no cooking on campus. Ms. Doyle explained cooking has caused fire hazards in models examined. Ms. Doyle discussed collaborating with community members to teach classes on campus in the area.

**Senator Lance Russell** commented on the systemic problems of the lack of state government working together with the business community and wages that do not support minimum standards of living. Senator Russell is critical of GOED programs that create jobs with wages that people cannot live on. The Build SD program is paying Manpower

and Associates in Wisconsin thousands of dollars per month in subsidies to bring people here for low wage jobs. Senator Russell questioned why the state is recruiting people here for low wage jobs and creating social debilitation for communities. He called for the need to address issue of low wage, no health benefits jobs, and how EB-5 got people here at an exploitative wage and skyrocketed social programs costs for communities. He thanked Ms. Doyle for her organization's work and called for leadership at the state level to combat these issues and not expecting the federal government to pay full freight.

Senator Heinert asked about data in San Antonio for getting people into homes and if that is a goal for RCCI. Ms. Doyle said, nationwide there is an affordable housing issue but particularly in Rapid City. The organization is working on a whole system to provide opportunities for affordable housing. Senator Heinert asked if the organization had talked to the Rapid City Central High School principal on homeless youth and the school's program and if the organization is working to keep homeless youth out of the DSS system. He also inquired about youth afraid to present themselves because they may be put into the foster care system. Ms. Doyle discussed current realities for homeless teens who are parents. After 30 days at Lutheran Social Services of South Dakota they are out of options. The organization is looking at a model in Michigan and working with Abbott House to bring their practices to Rapid City. The organization is also looking at how to best help people ages eighteen to twenty-four.

#### **Update from the Department of Tribal Relations**

**Mr. Steve Emery, Secretary, Department of Tribal Relations (DTR)**, provided an overview of the department's activities since legislative session. DTR has been holding quarterly meetings with highway patrol and tribal law enforcement. The third round of law enforcement outreach meetings are scheduled for later this winter. Future meetings will include discussion on how to get tribal law enforcement officers into the state training academy. The department continues to work with tribal leaders to discuss concerns regarding Standing Rock, SB 176 from the 2017 Legislative Session, and public safety. Secretary Emery discussed the transition to parole in an individual's home community. DTR has also been working with the Game, Fish and Parks Department on tribal issues, including relationships and collaborative trainings and a finalized Flandreau Santee memorandum of understanding. GOED is working with tribes to discuss proposals, tribal economic development goals, and building relationships for opportunities for growth. There are outreach meetings being held with the Department of Tourism regarding opportunities for tourism in Indian Country and updating the I-29 corridor tourism guide. DTR is working on outreach at the Lakota Nation Invitational this week. The department is addressing accreditation and curriculum with the Office of Indian Education. DTR is working on brand board issues, research farm tribal tours, drought outreach, and discussing tribal and individual producer ag output. There was a tribal legislative planning event at the Capitol this fall, to increase tribal participation in legislative process. DTR has worked with putting behavioral health and suicide prevention materials as online resources through the Department of Social Services. DTR is finalizing plans for State-Tribal Relations Day during the upcoming legislative session.

Senator Russell thanked Secretary Emery for the department's efforts, especially to mend and resolve tensions following SB 176. Senator Russell stressed the importance for the State-Tribal Relations Committee to assist DTR in their outreach efforts and ambitious agenda.

Representative Bordeaux asked if there would be any surprises like SB 176 from last session and encouraged DTR to engage with the committee as a legislative conduit. Representative Bordeaux added that the Tripp County pipeline issue will continue to come up. Secretary Emery was not aware of any big issue bills but promised to keep the committee informed.

**Representative Elizabeth May** inquired about GOED Commissioner Stern talking about missing opportunities due to workforce development issues at the Joint Commerce interim meeting. Secretary Emery stated Commissioner Stern sent a letter to all tribes, but only two responded and added if there is not an economic development director at that tribe, GOED knows the tribe does not have money to go down that road. Secretary Emery responded that

he has discussed this with Commissioner Stern and that Lower Brule is actively recruiting an economic development director. Representative May wants to make sure GOED includes all of the state, not just the eastern side or Rapid City. Secretary Emery added that GOED regularly communicates and travels to Indian Country.

**Senator Kevin Killer** asked if DTR was involved or notified of the recent pipeline spill near Sisseton. Secretary Emery said he immediately called the tribal chairman upon notice of the spill. Secretary Emery continues to receive daily Department of Energy and Natural Resources briefs on the issue, and the chairman receives regular briefings from TransCanada on the spill. Representative May added that Senator Frerichs and Representative McCleerey have been up to the location of the spill and have additional information.

Senator Heinert expressed appreciation for Secretary Emery and his staff for taking this department to another level.

### **Center for the Prevention of Child Maltreatment**

**Ms. Carrie Sanderson, Director, Center for the Prevention of Child Maltreatment, Vermillion, South Dakota,** provided background on the Jolene's Law Task Force and the development of a ten-year plan to address child maltreatment in sexual abuse in the state. **(Document #1)** Ms. Sanderson discussed the work of the newly formed Center for the Prevention of Child Maltreatment. The center's first goal is to establish systems and bench marking for data collection and development of evidence based best practices. The center is working to create a single point, data collection system. The center is starting an environmental scan for national best practices. The Department of Health did not receive enough responses from school districts, so there is a need to educate school districts about why the data is important.

Ms. Sanderson described the Adverse Childhood Experiences (ACES) interface program for educating communities on becoming childhood trauma informed. The higher the number of ACES a child has, the more likely the child is to have physical health problems, social, economic, and behavioral health problems, throughout their life. A level of eight ACES has a twenty-year shorter lifespan than an individual with fewer ACES. This problem goes across all socio-economic classes and races. It is happening in every community, so all communities need to be trauma informed. ACES training is planned to roll out this spring.

The state does not have pediatric sexual assault kits. The center will be creating a prototype to distribute to emergency rooms and hospitals. The center is developing training for mandatory child abuse and neglect reporters. DSS has a new video on the subject on its website, and it received several thousand views last month. The center is working with the Board of Regents on training mandatory reporters at the education level and working with other professionals including doctors and lawyers.

The center is working on a regional approach for memorandums of understanding to share case reviews across organizations, where appropriate. The goal is for the law enforcement officer, medical provider, and mental health provider to meet the child all at one facility. South Dakota lacks widespread child advocacy centers. The center is working on law enforcement investigative relationships and training for attorneys, judges, and child protective service workers.

The center is focusing on community awareness to become trauma informed and working to make this a sustainable, ongoing, collaborative project to share information and resources. A fall 2018 conference is planned with spiritual, medical, education, and law enforcement education tracks. The center will have continuing education available. The center wants to be inclusive of all South Dakotans, including native populations and make efforts to work with tribes. The center would like to develop a tribal consortium and go out into native communities.

Representative Bordeaux asked how legislators can help or be of influence and offered to assist. Ms. Sanderson asked for opportunities to speak and educate. The center wants to work with individual communities and have conversations to make community specific plans and to address trust issues with DSS. She would appreciate legislators to open doors and help lend credibility to the organization and to help individuals move past a lack of trust in governmental institutions and outsiders.

Representative Lesmeister asked who has access to any collected data and why. Ms. Sanderson emphasized the importance to collect, keep, and protect information for cases but not to harm a child in the future. At a later date, funding will be needed from the state for the database system, but planning for the system is at the initial stage. There is court improvement program support funding for 2018. Representative Lesmeister called for the need for data security and limited access to maintain trust. He likes the concept and wants to support it, but this will be a huge issue.

Senator Killer expressed appreciation for the center's work, especially on ACES as it is the root cause of many social issues. He encouraged Ms. Sanderson to introduce and reiterate the concept with tribal leaders.

Senator Russell described his past work as a prosecutor dealing with these issues, including prosecuting sexual assault, and called for work on beefing up resources across the state, especially in schools. He discussed how to get past trust issues. Senator Russell said giving tools and trainings to law enforcement should be at top of the list. Law enforcement needs to know what resources are available because they possess the necessary expertise. Rural prosecutors and law enforcement are in particular need of education, training, and resources.

Senator Heinert reiterated that the committee appreciates Ms. Sanderson and the center's efforts. He wants to get to a point where we don't have people saying they didn't know and are missing signs. He brought up the potential for exploitation on the internet and an appreciation for the center's cultural resources and sensitivity. He asked Ms. Sanderson to keep the committee informed.

Ms. Sanderson discussed how individuals can help the movement, including issues regarding rehabilitating offenders back into communities. Her advice included, "If a child comes to talk to you, be open to information and know the resources available in your community. How would you react if an individual child or adult came to you? Don't shy away from difficult conversations or topics."

#### **Rapid City Police Department**

**Captain Karl Jegeris, Rapid City Police Chief, and Vaughn Vargas, Community Advisory Coordinator,** spoke on the U.S. Department of Justice grant the Rapid City Police Department (RCPD) received for Native American recruitment and retention program for the region. The department learned of the award in the last month and expects to receive approval to transfer funds to Western Dakota Technical Institute (WDTI). WDTI will hire a full-time position for its career counseling department. Mr. Vargas spoke of the application of Lakota values to law enforcement and his work talking to families of traditional Lakota law enforcement officers. He spoke of the need to tap into community and tribal leaders to select officers and secure support. WDTI does not include cost of living, which leads to an unmet need for law enforcement students. Vargas said the department would appreciate future legislative support on this issue.

Representative May inquired as to the size of the grant. Mr. Vargas replied it is for \$75,000. One third covers benefits for the full-time employee. Retention is a huge issue for native law enforcement officers. The grant to engage families and support students throughout school and prepare them for hardships of the job. Scholarship funds are not part of the grant. Representative May asked what was the recruitment goal. Mr. Vargas answered that at WDTI, 23 started the program, but only 6 returned the second semester. WDTI has made changes to program. It is hard to base numbers without establishing the program at WDTI. Mr. Vargas said RCPD will also work

with Oglala Lakota College and other four-year degree institutions. A four-year degree is required for law enforcement leadership positions.

Captain Jegeris said his department is becoming successful in grant acquisition and is digging deep to make meaningful change. He said the department had been utilizing the criminal justice approach but is now developing a quality of life unit using a \$750,000 grant in conjunction with RCCI. They are one of five jurisdictions nationwide to receive this grant. The grant had to be based on a race incident, and the department used the Wounded Knee massacre. South Dakota's grant was a stand out application. They are currently working on approvals before a big announcement and have begun to advertise internally for two positions within the department to lead the unit. RCCI will hire the community outreach workers for boots on the ground community social work in downtown and park areas for case management. The unit will target chronic inebriants and help to keep them out of the criminal justice system. They are hopeful to justify to the city or another better suited organization to take on the work when the grant ends.

Captain Jegeris discussed the Safety and Justice Challenge (SJC), which is a collaborative effort throughout the seventh circuit to reduce DOC populations. Mr. Vargas added the number of detox safe beds is increasing and that they are looking at best models around the country. There are not a lot of options for law enforcement for intoxicated individuals. The department is working on reducing incarceration for these individuals and diversion for ages eighteen to twenty-five. Minor decisions by young adults are haunting them down the road – affecting college or military entrance. The department will utilize culture to empower individuals to get out of the cyclical nature of crime with a goal of reducing Native American jail population by 2020, and it is already being reduced. RCPD is also working on warrant resolution issues.

Senator Russell said violent crime is on the rise in Rapid City and that he saw it on a daily basis in his past prosecutorial work and commented on the current proactive programs. Senator Russell asked if RCPD is predicting these initiatives taken up in the last two years will have to be expanded even further down the road. Captain Jegeris said current resources for incarceration alternatives are inadequate. Hospitals are making triage decisions based on availability, such as for detox. There is not currently a self-reporting mechanism to go to detox. Additional beds downtown will provide opportunity for self-reporting. There were record homicides recently in Rapid City and Pine Ridge, per capita. 2017 has been much better for both jurisdictions. Law enforcement has lost the ability to deter methamphetamine use in the community. SB 70 from the 2013 Legislative Session has worked well for the system, for the most part, but has failed to deter methamphetamine use. Something needs to change, to deter drug use. Officers used to be able to get intelligence to go after dealers but now users are not concerned about incarceration, so there is no incentive to give tips. There are inadequate mental health resources, especially in western South Dakota. The department hasn't used incarceration yet, but has been close due to having no other options. Traveling back and forth to Yankton for a family in crisis creates an even greater burden. There is a great need to improve mental health services nationwide. Mr. Vargas added that if communities have native police officers, the likelihood of utilizing community based policing rises.

Senator Killer brought up retention issues. Mr. Vargas replied that many did not know this type of law enforcement could exist in careers and communities. There are many opportunities for mentoring students in communities. Having and producing accountability has been lost in native communities. Native Americans have the highest rate per capita to join military, but law enforcement participation has declined. Participants need to complete the training program and will need family support to stay on the force.

Senator Nelson agreed wholeheartedly with RCPD's view on SB70, due to visible consequences. He stated the RCPD is a perfect fit for native service members entering the civilian workforce. He said that RCPD should target native veterans for recruitment with bonuses and advertise through military transition assistance programs. Veterans are an invaluable resource for any police department.

Senator Heinert inquired if there was any potential legislation to bring forward and brought up the Pennington County cyber bullying program in schools. He asked if there were any issues with RCPD getting calls about cyber bullying at home. Captain Jegeris said they have educational resources that school resource officers are using. There has definitely been an increase in this for both adults and children. Often it starts online and ends with an altercation in school.

Senator Heinert asked if there were still issues getting into the state law enforcement training academy. Captain Jegeris replied there has not been in the past, but they are recently facing capacity issues for slots at the training academy. It is a safety issue to start field training before the academy. They experience issues with officers staying three to five years and then leaving the field with many more people being cycled through the field.

### Public Testimony

**Mr. William Bear Shield, Great Plains Tribal Chairmen's Health Board, Rosebud Sioux Tribe**, discussed the possibilities for the former STAR Academy property as a tribal health facility. He asked the committee to assist in postponing the sale to explore other potential uses for the property and to serve the population formerly served at STAR Academy. The idea is in the initial planning stage, and he represented a group that recently toured the property. Mr. Bear Shield said a second auction is coming up for the sale of the STAR Academy property. The planning would involve the state, the Great Plains Tribal Chairmen's Health Board, and the tribes. The property could be part of a plan to help address addiction and overcrowding in correctional facilities.

**Ms. Heather Dawn Thompson, Attorney, Rapid City, South Dakota**, expressed the need for an inter-governmental treatment center with cooperation from counties, cities, school districts, and tribes. Tribes can get a one hundred percent reimbursement for Medicaid services. She talked about using separate buildings on the property to treat adults and youth. A building for federal inmates could bring federal dollars. Ms. Thompson said the state is already paying over \$100,000 to leave the property vacant while preventing waste. She said the group is looking at available tribal grants.

Senator Nelson said he had voted against the bill to sell the property during session. Law enforcement recognizes the need for treatment centers. Senator Nelson recommended getting the message to the Governor to cancel or postpone the auction. He reminded attendees that the state is highly unlikely to recoup its investment, including recent renovations, from the auction sale and said the committee needs to send a report to the Governor to express support for not selling the property and using it as a treatment center.

**Ms. Jerilyn Church, Chief Executive Officer, Great Plains Tribal Chairmen's Health Board, Rapid City, South Dakota**, said the board met last week in Aberdeen. Many tribes have resources to help develop a treatment center but not enough on their own. Tribes are working on planning and restructuring how IHS and other federal resources will be utilized by the health board. IHS requires resources from all eighteen area tribes. Ten have committed, and the group is now working on the remaining North Dakota tribes. In addition, the tribes are working to remove the requirement for 100% Federal Medical Assistance Percentage (FMAP) and reduce bureaucratic red tape at the federal level.

Senator Heinert commented on the skyrocketing numbers of incarcerated females, including natives. Most are methamphetamine related. Communities lack mental health and other treatment resources. He called for the committee to sponsor a resolution to stop the sale.

Senator Killer asked Mr. Bear Shield what data they needed. Mr. Bear Shield said the group would need data from schools and other stakeholders and that they are in communication with Secretary Emery. Mr. Bear Shield said the tribes were not even sure why STAR Academy was closed. He said the group is also looking for county support.



Representative May expressed her appreciation for the group coming forward and that several members on this committee has not wanted STAR Academy sold for these reasons. She asked if the group had reached out to Pennington County commissioners. Mr. Bear Shield said they plan to do so but the work had only started in the last two days. The group is working on a business plan for how to get the facility to pay for itself and create jobs. He questioned where are these youth at today, that would have been served by STAR Academy in the past. The group was glad they toured the property.

Representative May said the committee needs to follow through and communicate with Secretary Emery and the Governor's office. Secretary Emery replied that he has been coordinating those discussions with the group and the Governor's office and arranged the tour the previous day. He said the issue is too new to gauge the Governor's position, but dialogue is occurring. Representative May said this committee will be very receptive working on supporting this issue and that juvenile justice reform has shifted cost down to cities and counties.

**A MOTION WAS MADE BY SENATOR RUSSELL SECONDED BY REPRESENTATIVE BORDEAUX TO REQUEST THE GOVERNOR PUT THE JANUARY SALE OF THE STAR ACADEMY ON HOLD FOR THE PURPOSE OF EXPLORING THE POSSIBILITY OF ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT FOR THE FOR THE MANAGEMENT OF A TREATMENT FACILITY. The motion prevailed by voice vote.**

**Mr. Tom Katus, former state legislator, Rapid City, South Dakota,** complimented Mr. Vargas. Mr. Katus spoke regarding the impact of the late Representative Craig Tiezsen and the need to acknowledge all who serve. Mr. Katus thanked all in public service and spoke on Charity Doyle's presentation and the healing after police shootings and the Rapid City Rush incident. He said the city woke up when LNI threatened to pull out and talked of how to get along better. In polling the whole community, housing and homelessness is the central issue in Rapid City, but there are lots of "not in my backyard" issues going on now. There is a need to address issues more creatively than in the past. Mr. Katus is willing to help reach out to the tribes and to the committee.

**Mr. David Kills A Hundred, Flandreau Santee Sioux Tribe, Flandreau, South Dakota,** stated others are looking to open a non-native casino in Yankton and cut the tribe out of the loop, which would kill the Yankton and Nebraska Santee Tribes's casino revenue. Yankton wants to open the entire state to casinos outside of Deadwood and reservations to the detriment of the state. The pool of gamblers in state has not grown in the last decade. A coalition of South Dakota tribes and the Nebraska Santee Tribe is forming on this issue.

Senator Nelson inquired regarding the state and federal cut of reservation casino money. Mr. Kills A Hundred replied that each tribe has its own compact, and his tribe gives money to the city of Flandreau. Senator Nelson stated that he would oppose a new Yankton casino.

**Ms. Tonchi Weaver, South Dakota Citizens for Liberty, Rapid City, South Dakota,** thanked the community for support to utilize the former STAR Academy property, as it would be beneficial for all South Dakota communities. Ms. Weaver thinks the proposal has great potential.

#### **Committee Discussion**

Senator Heinert stated the Executive Board approved the committee's request for a fourth State-Tribal Relations interim committee meeting and said that he had reached out to Todd County Middle School in Mission, South Dakota. This school is a state achievement Native American Achievement school grantee and recently presented at a conference in Las Vegas. Potential meeting and Todd County Middle School tour dates are January 4 or 5, 2018. Members were in favor of holding a fourth meeting on January 4, 2018.

**A MOTION WAS MADE BY SENATOR JENSEN SECONDED BY SENATOR NELSON IN ACCORDANCE WITH INTERIM RULE #15 AND IN ACCORDANCE WITH SDCL 2-6-23: FOR THE PURPOSE OF IMPROVING STATE-TRIBAL COMMUNITY RELATIONS, AND FOR STUDYING AND CONSIDERATION OF INFORMATION REGARDING DIVERSIONS OF MONIES INTENDED FOR NATIVE AMERICAN YOUTH EDUCATION, MEANT TO IMPROVE LONG-TERM ECONOMIC DEVELOPMENT OF THESE YOUTH'S IMPOVERISHED COMMUNITIES, IN ORDER TO COMPILE AND PRESENT DRAFT LEGISLATION, AND/OR POLICY RECOMMENDATIONS TO THE LEGISLATIVE RESEARCH COUNCIL EXECUTIVE BOARD THAT THE JOINT-TRIBAL RELATIONS COMMITTEE ISSUE OFFICIAL LEGISLATIVE SUMMONS TO THE FOLLOWING PERSONS COMMANDING THEIR APPEARANCE BEFORE THE NEXT JOINT-TRIBAL RELATIONS COMMITTEE MEETING: MELODY SCHOPP, DON KIRKEGAARD, TOM OSTER, TAMERA DARNELL, BRINDA KUHN, KEITH MOORE, RICK MELMER, AND KELLY DUNCAN, WITH SUBPOENAS SENT TO THE DEPARTMENT OF EDUCATION, MIDCENTRAL EDUCATION COOPERATIVE, AND EACH NAMED INDIVIDUAL COMMANDING ALL RECORDS, DOCUMENTATION, VOUCHERS, CHECKS AND MEMORANDA ON EACH INDIVIDUAL'S PERSONAL SERVICE CONTRACT OR PERSONAL EMPLOYMENT AGREEMENT RELATING TO ANY GRANT ADMINISTERED OR MANAGED IN ANY WAY BY THE STATE OF SOUTH DAKOTA.**

**The Chair ruled the motion out of order.**

**SENATOR NELSON RAISED A POINT OF ORDER THAT THE CHAIR HAS A DIRECT PERSONAL CONFLICT OF INTEREST, AS HIS MOTHER WAS IDENTIFIED IN PREVIOUS PROCEEDINGS OF THIS COMMITTEE AS BEING POTENTIALLY CONNECTED TO THE GEAR UP CORRUPTION, CITING MASON'S MANUAL OF LEGISLATIVE PROCEDURE, SECTION 522, AND SHOULD RECUSE HIMSELF. Chair ruled the point of order was out of order.**

**SENATOR NELSON CHALLENGED THE RULING OF THE CHAIR BECAUSE THE CHAIR HAS A PERSONAL CONFLICT OF INTEREST IN RULING THAT HE DOES NOT HAVE A CONFLICT OF INTEREST IN DECIDING A MOTION THAT MAY HAVE AN IMPACT ON HIS OWN FAMILY MEMBER. SENATOR RUSSELL SECONDED.**

**Representative John Lake** asked for clarification, as he was not a member of the committee and not present at the October 23, 2017, meeting. Senator Nelson reiterated his statement that Senator Heinert's mother was identified twice on the map, used in Professor Marshall Damgaard's presentation on the GEAR UP scandal at the October 23, 2017, meeting. Senator Nelson stated that the rules do not allow a member with a conflict of interest to vote on a matter and that his point of order is that the chair has a conflict of interest and should recuse himself.

Representative Lake asked for further clarification if there was a specific statement by an individual or evidence that a conflict of interest exists. Senator Nelson stated that a personal conflict of interest would exist with an immediate family member's involvement and that a mother is considered an immediate family member. Senator Nelson said that for this reason, Senator Heinert should recuse himself.

Representative Lake stated that he lacked specific information as to Senator Heinert's mother's involvement other than that she was listed on the board. Senator Russell responded that the committee would not be able to answer that specific question today, but there has been a stonewalling for the past two to three years regarding GEAR UP and EB-5 by the administration and the Legislature. Senator Russell said the motion is asking that those who may have a conflict of interest step aside and allow the committee to investigate.

Senator Heinert stated his mother was hired to evaluate curriculum and classroom instruction for two schools for just over a year. After that period, the group holding the contract with GEAR UP was replaced. She did not receive a contract with GEAR UP but was hired and paid by the group holding the contract.

**SENATOR NELSON MOVED THE PREVIOUS QUESTION. The motion prevailed.**

**THE QUESTION BEFORE THE COMMITTEE WAS SENATOR NELSON'S CHALLENGE OF THE CHAIR'S RULING THAT THE CHAIR DOES NOT HAVE A CONFLICT OF INTEREST. The challenged failed on a roll call vote for lack of a majority with 5 members voting AYE, 5 members voting NAY. Those voting AYE: Jensen, Nelson, Russell, Livermont, and May. Those voting NAY: Killer, Bordeaux, Lake, Lesmeister, and Heinert.**

**The Chair's ruling was sustained.**

**Chair ruled Senator Jensen's motion out of order because the State-Tribal Relations Committee is a statutory committee and does not have the statutory authority to subpoena.**

**SENATOR NELSON CHALLENGED THE CHAIR'S RULING THAT SENATOR JENSEN'S MOTION WAS OUT OF ORDER. SENATOR JENSEN SECONDED.**

Representative Bordeaux expressed his frustration with being told to not accept the opinion of LRC that the State-Tribal Relations committee is a statutory committee rather than an interim committee. Representative Bordeaux said he would stand by the opinion of LRC until he saw otherwise in writing.

Representative May said that the proper resolution was to issue the subpoenas and have the courts decide. She expressed her frustration with the wait for the Attorney General opinion. Representative May expressed her concerns with the grants secured due to the original GEAR UP grants and the amount of money all of the grants in total represent. She expressed her desire to hold the people at the top of the grants accountable. She further said we should issue the subpoenas, and, if the people do not want to appear, let the courts decide.

Representative Bordeaux recalled a conversation with the late Representative Tieszen following the October 23, 2017, and that Representative Tieszen said that GOAC was the proper place for this discussion. Representative Bordeaux expressed his concern for the misuse of the money and the students harmed and lent his support to sending this issue back to GOAC.

Senator Killer expressed his concerns with the extreme name calling and calls for removal of certain members of the committee on social media after the last meeting and the lack of civility. He emphasized how the name calling causes hurt for the native community, and that this has consequences on both sides.

Representative Lesmeister added his concerns regarding the name calling after the last meeting. He stated the purpose of this committee is improving relations among the state and the tribes. Representative Lesmeister asked if he had a conflict of interest because his daughter participated in the GEAR UP summer program and asked what the committee would do with the information it might obtain if the individuals subpoenaed would testify.

Senator Nelson stated that this committee can submit a request to the Attorney General to prosecute, report to the Legislature, or request that the Governor's office discipline state employees. He said the legislature is to act as a check and balance on the other branches of government and stated the impeachment authority of the legislature also extends to executive and judicial branches.

Senator Russell said that the STAR Academy property is an opportunity to work with the tribes. He does not believe Representative Lesmeister has a conflict of interest. Senator Russell reiterated that the legislature is a check and balance on the other branches but that the legislature has abdicated its authority for some time in regard to the unbridled authority of the executive branch to spend money. He said that the inertia and bureaucracy in Pierre is to not look at this.

Senator Heinert read the statutory citation that authorizes this committee and that subpoena authority is not expressly authorized or implied.

**THE QUESTION BEFORE THE COMMITTEE WAS SENATOR NELSON'S CHALLENGE OF THE CHAIR'S RULING THAT SENATOR JENSEN'S MOTION WAS OUT OF ORDER. The challenged failed on a roll call vote for lack of a majority with 5 members voting AYE, 5 members voting NAY. Those voting AYE: Jensen, Nelson, Russell, Livermont, and May. Those voting NAY: Killer, Bordeaux, Lake, Lesmeister, and Heinert.**

**The Chair's ruling on the motion was sustained.**

Representative May brought up that there is a new secretary of education waiting for confirmation. She recommended a letter or resolution to oppose Don Kirkegaard's nomination as secretary, due to his proximity to the GEAR UP scandal. Representative May stated she felt the Department of Education needs someone not involved and that there is a problem in South Dakota with the appearance of impropriety.

The committee discussed that the nomination would first come before the Senate Education committee and that Senators Jensen and Heinert are also members of that committee. Senator Heinert expressed his concern that Mr. Kirkegaard was not at the meeting to testify and that the committee lacked information.

Senator Nelson said this is an opportunity to exercise a check and balance on the administration as they have nominated someone that creates the appearance of impropriety.

Representative Lesmeister said he has had constituents contact him to express no confidence in the nomination.

**SENATOR RUSSELL MOVED THAT THE COMMITTEE RECOMMEND NOMINATION OF DON KIRKEGAARD AS THE SECRETARY OF EDUCATION NOT BE CONFIRMED BY THE SENATE. SENATOR NELSON SECONDED. The motion prevailed on a roll call with 9 members voting AYE, 1 member voting NAY. Those voting AYE: Bordeaux, Jensen, Killer, Lake, Lesmeister, Livermont, May, Nelson, and Russell. Voting NAY: Heinert.**

**SENATOR NELSON MOVED THAT THE COMMITTEE FILE A FORMAL REQUEST WITH THE GOVERNOR THAT HIS ADMINISTRATION RETURN TO OGLALA LAKOTA AND TODD COUNTIES THE MONIES COLLECTED FROM THEIR RESIDENTS UNDER SDCL 32-5-153 ON VEHICLES REGISTERED PURSUANT TO SDCL CHAPTERS 32-5 OR 32-9. SENATOR RUSSELL SECONDED.**

Senators Russell and Heinert explained the dollar fee collected under the statute is for the highway patrol. These counties have the fee collected but do not allow the highway patrol onto their reservations. Senator Killer sponsored a bill during the 2017 Legislative Session on this issue.

Representative Lake inquired as to the dollar amounts collected. Senator Killer responded that approximately \$7,200 was collected in Oglala Lakota county and \$5,000-6,000 in Todd County and that the amount was collected per car.

**The motion prevailed on a voice vote.**

### **Adjournment**

**A MOTION WAS MADE BY SENATOR JENSEN SECONDED BY REPRESENTATIVE MAY, THAT THE STATE-TRIBAL RELATIONS COMMITTEE MEETING BE ADJOURNED. The motion prevailed on a unanimous voice vote.**

The committee adjourned at 4:01 p.m.